

PAPER B

NOTIFICATION OF A CALL-IN UNDER THE PROTOCOL ON THE COUNCIL'S DECISION-MAKING PROCESS

We the undersigned wish to apply the Call-In procedure in respect of the following decision taken by the Cabinet Member for Resources on 7th January 2019 - Reference number and title of report: - Ref: 13/18 – Review of Council Assets – Ryde/Ventnor Harbours (Notice Published 26th November 2018).

Decision –

- (i) To offer the freehold/leasehold of Ryde harbour on the open market with a restrictive covenant that it be only used as a harbour/marina; such covenants to only be removed if an alternative use of the area could generate a significant and sustainable economic benefit to Ryde and/or the Island. Any consideration should include a reversion to allow for any future development of the seafront.
- (ii) To offer the transfer the management of Ventnor Harbour to a third party through the open market at no cost to the council;
- (iii) The final agreed terms of any transfer/outsourcing to a third party be to be the subject of a further decision of the Cabinet, but where no terms are agreed then the council will continue to directly manage the harbour.

Called-in because (tick as appropriate):-

- ✓ Inadequate consultation with stakeholders, partners or the public
- ✓ absence of evidence for decision
- ✓ decision contrary to policy framework

Brief statement supporting reason for call-in :-

The Council's Constitution – Article 16 on decision-making – 4.6 states:

Where a Cabinet member is taking a delegated decision any question from a member in response to a proposed delegated decision must be responded to before the decision is confirmed provided that such question is received at least 48 hours before published date as to when it is intended to make the decision.

Cllr Lilley wrote to Cllr Hutchinson on the 30th December 2018 (Appendix 1) and received no reply which is in contravention of Article 16, 4.6.

Overall, the delegated decision does not reflect the verbal and written statements by the Cabinet Member for Resources in relation to Ryde Harbour. The published concerns and objections of Ryde Residents have not been adequately answered or made referenced to in particular from Cllr Lilley, Ryde Society and Ryde Town Council.

The Timeframe of Response from Ryde Town Council is as follows:

1. On 26 November 2018 the Isle of Wight Council Cabinet for Resources published a proposed delegated decision in respect of Ryde and Ventnor Harbours. The Notice of Decision sought representations in respect of the proposals by 4 December 2018.

2. At a Ryde Town Council on 3 December 2018 the Town Council agreed the that the following representation be submitted to the Isle of Wight Council Cabinet Member:

"Ryde Town Council objects to the recommendations contained in the Delegated Decision Report in regard to Ryde Harbour and asks that the Cabinet Member for Resources attend a public meeting in Ryde to discuss alternative options with the Ryde community within the next two weeks, which should include the option of the Isle of Wight Council selling the Harbour to Ryde Town Council for a £1."

3. This representation was submitted to the Isle of Wight Council early on 4 December 2018 and published by the Town Council later that day.

The Ryde Town Council's resolution from 3 December 2018 was acknowledged by Cllr Hutchinson by telephone on 6 December 2018. No written acknowledgement has been received.

It was a request that Councillor Hutchinson consider the sale of Ryde Harbour to RTC as an additional option in the Delegated Decision Paper. The Cabinet Member telephoned the Town Council on 6 December 2018 to confirm receipt of this representation. The Cabinet Member then arranged for budget information about the Harbour to be sent to the Town Council and this was circulated to Members in the week commencing 10 December 2018. In addition, a statement from the IWC about the Harbour was sent to the Town Council on 13 December 2018, circulated immediately to Members and published on the Town Council's website.

There have been a number of articles in the press that indicate that the IWC has offered the Harbour to RTC for £1. This may be the case informally but formally the Cabinet Member record of decision makes no mention of this.

The Cabinet Member for Resources replied to Cllr Lilley on the 20th December to his email dated (Appendix 2) and the Cabinet Member for Resources stated as follows:

"As I've said, I think the final decision on any potential sale and if so, to whom should be taken by Cabinet because of the wider Island and Town concerns"

"I have no concerns at all about registration as an asset of community value or considering RTC as a preferred purchaser, subject to further talks with them. As you know I've been happy for that to happen with other properties, such as Appley Tower."

There is no mention or acknowledgment in the delegated decision that any final decision is to be by Cabinet and reference to IWC Council having talks with Ryde Town Council. This admittance is contentious and causes confusion to Ryde Town Council and the Community.

The delegated decision on Ryde Harbour relates to Public Realm land that is part of the Ryde Esplanade. The Esplanade is IW Council Land that is targeted for Regeneration and part of the Council's Regeneration Policy and Programme. There have been several consultation events at Ryde Castle in 2018. At no time did IW Council discuss with residents at these events about Ryde Harbour being sold. The delegated decision is contrary to plans discussed at these Ryde Regeneration events and there is evidence that the whole esplanade's future including the Harbour were actively discussed with residents, Ryde Town Council, Ryde Society, and other stakeholders as a whole. A consultation commissioned by the IW Council Regeneration Team clearly evidenced that

residents and stakeholders wished to see the Ryde Esplanade remain in the public realm and be developed as a public/community space with facilities for the community and tourism. This issue was clearly pointed out to the Cabinet Member for Resources but he has made no reference to the Esplanade Regeneration Programme/Consultation even though he doubles as Cabinet Member responsible for Regeneration in Ryde. There is clear contradictions and conflict of interest between his role as Cabinet Member for Resources and Cabinet Member responsible for Ryde Regeneration. This is referred to in an Email (as published in delegated decision) dated from Stella Davis (Chair of Ryde Society and Councillor Lilley (Appendix 3).

Cllr Lilley emailed on the 9th January (Appendix 3) after the delegated decision asking for changes to the decision and he has yet to receive a reply.

I contend the delegated decision is premature and cause unnecessary confusion. It is a contentious issue and needs further scrutiny. There has been contraventions of the constitution, confusion with Council's Regeneration policy, and inadequate consultation.

Desired outcome:

1. The delegated decision is rescinded and the matter of the future of Ryde Harbour is referred to Cabinet for any action of decisions.
2. There is a clarification statement that any decision in regard the Harbour has to be within the context of the Regeneration of Ryde Esplanade.
3. No action is taken until Ryde Society and Ryde Town Council have applied for Ryde Harbour to be listed as a Community Asset under the Localism Act 2011.
4. No action is taken until talks with Ryde Town Council have taken place in light of their motion to undertake a feasibility study in taking over the ownership of the Harbour through the sale of the Harbour for £1 by IW Council.

Names of members with signatures (minimum of three required with two being members of the scrutiny committee together with the support of the chairman of the scrutiny committee)

- 1 (Lead Member for the call-in) – Cllr Michael Lilley
- 2 Cllr Ian Stephens
- 3 Cllr Karl Love
- 4 Chairman of the scrutiny committee

Dated 14th January 2019

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Appendix 1

Begin forwarded message:

From: "Lilley, Michael" <Michael.Lilley@IOW.GOV.UK>

Date: 30 December 2018 at 13:50:38 GMT

To: "Hutchinson, Stuart" <Stuart.Hutchinson@IOW.gov.uk>

Cc: "Stewart, David (County Councillor)" <David.Stewart@IOW.GOV.UK>, "Whittle, Wayne (External)" <waynecwhittle@tiscali.co.uk>, Cllr Adrian Axford <adrian.afxord@rydetowncouncil.gov.uk>, "malcolm.ross@rydetowncouncil.gov.uk" <malcolm.ross@rydetowncouncil.gov.uk>, "stellarankindavis@live.co.uk" <stellarankindavis@live.co.uk>, "clerk@rydetowncouncil.gov.uk"

<clerk@rydetowncouncil.gov.uk>, "Garratt, Andrew" <Andrew.Garratt@IOW.GOV.UK>, "Thistlewood, Paul" <Paul.Thistlewood@IOW.gov.uk>, "Chilton, Chelsea" <Chelsea.Chilton@IOW.gov.uk>

Subject: Re: Ryde Leisure Marina and delegated decision.
Dear Stuart,

After reading, Stella's email to you on behalf of Ryde Society, I feel moved to respond as she does raise some important points and adds to the ever increasing contentiousness of this specific delegated decision in regard Ryde Harbour.

Firstly, I do understand this subject can be best described as a "indsight is a perfect science" and "you are damned if you do and damned if you do not" decision. However, I do feel the best course of action would be:

1. Consider withdrawing the delegated decision until discussions have been undertaken with Ryde Town Council with consultation with local stakeholders such as Ryde Business Association and Ryde Society amongst others. One suggestion is RTC consider establishing a Harbour and Community Asset Working Group within its constitution and this Group could explore options with IW Council. I do think getting into discussions with other interested parties would be premature until RTC has agreed a way forward with IW Council in consultation with other community stakeholders.
2. The points raised by Stella regarding conflict of interest should be explored by the Monitoring Officer and therefore I feel it be better to withdraw the delegated paper and put the whole issue on the Cabinet Agenda. The Cabinet could then clarify how best to proceed and these can then be scrutinised by Scrutiny Committee. This would give more transparency and reduce confusion. On reflection, I do feel that the responsibility of Ryde Regeneration moving to you as Cabinet Member of Resources due to Cllr Whittle being a business owner in Ryde and local Ward member with Ryde Esplanade and Harbour in his Ward perhaps needs to be revisited. Stella does raise a relevant point that there could be more conflict between your role in maximising value of assets and getting a balanced budget and the regeneration needs of Ryde Town, which naturally by their nature could be at odds. I do feel this issue has become contentious due to the process of consultation with the community and RTC regarding the regeneration of the Esplanade has clashed with the need for the Council to resolve immediate budgetary and liability issues in regard the Harbour/Leisure Marina. It would be good to get resolution of the perceived areas of conflict so everyone is clear and there is an improved transparent way forward in regard Ryde. There is always going to be grey areas but this should be covered by existing protocols in place and I am sure the Monitoring Officer can resolve this satisfactorily for all those involved. I feel withdrawing the delegated decision and referring it to full Cabinet in my view would be the first step in the right direction. I also feel a strategic decision to have all areas that encompass Regeneration of Ryde be formulated into a transparent process and channel and again this could be through RTC and a working group process. It has to be mentioned that IW Council's own Regeneration

Team's development process has inspired healthy involvement of Ryde residents and organisations, and therefore there needs to be a transparent vehicle to make sure any decisions about Ryde's future and the future of any community assets are decided through a process everyone can see and interact with and meet community aspirations (encouraged by your Regeneration officers).

I thank you for your due diligence in this matter and welcome your response. I again wish you and your family a wonderful New Year.

Best wishes

Michael

*Cllr Michael Lilley - Ryde East Ward
Tel: 07769551578*

On 29 Dec 2018, at 20:36, Stella Davis <stellarankindavis@live.co.uk> wrote:

Dear Cllr Hutchinson

You may have been somewhat puzzled by correspondence in which I stated that you had suggested (to me) that if I wanted somewhere nice to live, I should forget about Ryde and consider Yarmouth - where your ward is. If you are unable to recall the occasion, it was at the first meeting of the Regen team at the Ryde Castle in May when you were chatting to my Swiss guest and I came to join you. It was said in jest, but my concern is that you are in charge of the regeneration of Ryde. It is worrying to think that you are prepared, even as a joke, to imply that Ryde is something of a dump and has little future.

Were the IOWCC - both Councillors and officers, to have a more positive, integrated and proactive view of Ryde Conservation Area with its 400+ mainly Georgian, listed buildings and one of the best beaches in the South of the UK, the town would begin to thrive, increasing jobs and reducing the need for benefits in the town. This alternative will, we hope, be presented to us by Mr Ashman on 14th January at the meeting of The Ryde Society at 7p.m. in the Royal Esplanade Hotel, and you are welcome to attend.

Selling off our leisure marina or even seeking 'expressions of interest' is certainly not the answer to regeneration. As far as we can ascertain, Ryde Marina is profitable and has been since 1994, creating a profit in the region of £100,000 since then (not a lot, but not a loss making asset). So why search for 'expressions of interest' for a profit making asset? Perhaps loss makers like the floating bridge might make more appropriate asset sales. That has cost and is costing and will cost considerably more than Ryde marina.

In our view, your position as Deputy Leader and Cabinet member for Resources is in direct conflict with your role as the member in charge of regeneration of Ryde.

The sale of public assets may assist you in the first two roles due to the budgetary constraints, but is not the solution in the second. It is therefore, in our view, not possible for you to hold both roles or to make delegated decisions about the future of Ryde objectively. I might suggest that the conflict of interest of Councillor Whittle is minor in comparison to this.

I would also suggest that there is something of a conflict of interest were a councillor who is Cabinet member for Resources and an occasional member of the Planning Committee

of the IOWCC to put forward the possibility to sell the marina, for short term financial gain. Even if this were only as an 'expression of interest', there are dangers for the community and it is not a 'sustainable' solution. Were the eventual sale to be to a private firm, it could be the beginning of the end for Ryde Esplanade as the harbour area could then be sold on to anyone and a change of use allowed - you would then also be involved in that 'change of use' decision as a member of the Planning Committee. Profits would go elsewhere.

May I also remind you that the section of the coastline which includes the harbour has the highest ecological designation in the UK and Europe with several SSSI and Ramsar protections throughout. Add to that the Conservation Area which extends out into the sea and I wonder why this is being mooted. There is a requirement to 'conserve or enhance' the conservation area. Again, the fact that you are a member of the Planning Committee worries us.

The only possible sale, under these circumstances, which would allow you to maintain political integrity in your current roles would be to RTC. It might then be possible for Riley Marine Services to have a contract with Ryde Town Council, providing some income and thus maintaining an element of a working harbour within the leisure marina, as part of the overall regeneration plan for the Esplanade, being prepared by the Regeneration team.

Were any other solution to be suggested, or put on the delegated decision, we believe that there would be a conflict of interest for the reasons given above.

Given some recent highly unpopular Planning decisions in Ryde, I would suggest that the delegated decision due in a few days should be delayed -if that has not already happened - until we can be assured that there is no conflict of interest between the role of Cabinet member for Resources (who would wish to sell the marina) and the person in charge of regeneration in Ryde, where the marina is an integral part of the vision we have for Ryde, as put forward in the consultations and in the Town Council's position statement.

With apologies for the lack of festive spirit but with best wishes for 2019 and looking forward to a positive outcome for the beginnings of regeneration of Ryde seafront.

I look forward to your reply

*Stella Davis
Chair
The Ryde Society*

Appendix 2

From: "Hutchinson, Stuart" <Stuart.Hutchinson@IOW.gov.uk>

Date: 20 December 2018 at 17:43:42 GMT

To: "Lilley, Michael" <Michael.Lilley@IOW.GOV.UK>

Cc: "Chilton, Chelsea" <Chelsea.Chilton@IOW.gov.uk>, "Thistlewood, Paul" <Paul.Thistlewood@IOW.gov.uk>, "Garratt, Andrew" <Andrew.Garratt@IOW.GOV.UK>, Ryde Town Council <reception@rydetowncouncil.gov.uk>, "stellarankindavis@live.co.uk" <stellarankindavis@live.co.uk>

Subject: Re: Ryde Harbour - Delegated Paper

Hi Michael,

There seems to be a substantial amount of misinformation being circulated about Ryde Harbour. Essentially, the paper is to give the Council the option to offer the harbour, which in effect is a leisure marina, not a statutory harbour, to market to see what response it might attract. The reason for that is that we have to do more for the marina than the Council can afford, for the reasons which are set out below.

Note that the decision is only to seek interest. I'm minded if we have serious interest, after informal discussions, to put any further decisions to full Cabinet not to take them under delegated powers.

Prior to preparing the report, we offered discussions to both Ventnor and Ryde Councils so that we could explain why we were looking at this course of action. Ventnor accepted the offer, Ryde didn't. Had that discussion taken place that information could have been used to ensure that the meeting RTC held would have been better informed.

I have since arranged to send information on costs and income of the harbour to RTC, and should they, after considering that, wish to take it further I will firmly recommend (I have mentioned it informally already) that they formally seek an opinion about the issues, costs and liabilities from David Foster, who is an independent expert on harbour management. He advises the Council on all our harbours and is a recognised national expert.

The reason I say that is simply because, though I know that RTC have said they would consider buying the harbour for £1 and I'd certainly consider selling it to them for that, I do not want to then be accused of concealing information, just to sell it, nor do I want RTC to make a decision without knowing the cost and management implications of purchasing this property.

I've tried to answer the questions you put, as below, though some of them require a prediction as to who will do what and why and clearly I can't answer those at this stage.

Stuart

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From: Lilley, Michael <michael.lilley@iow.gov.uk>

Sent: Thursday, December 20, 2018 2:02 pm

To: Hutchinson, Stuart

Cc: Chilton, Chelsea; Thistlewood, Paul; Garratt, Andrew; Ryde Town Council

Subject: Ryde Harbour - Delegated Paper

Dear Stuart,

Although, the consultation period date has passed, I have now come privy to further information that I wish to share and ask for clarification:

1. There seems to be the indication that there have been 4 to 5 expressions of interest in the Harbour, which seems incorrect.

There have been several expressions of interest, some before preparing the paper and some since, including from RTC. I've personally received emails from two companies plus RTC and officers have had several others. This is even before we have agreed to ask for expressions of interest.

2. Riley Marine Ltd appears to be the only company that has active talks with IW Council and this has been going on for nearly 18 months, please can you confirm this?

I have had no talks with this Company, though I know officers have had expressions of interest from it dating back several months. This is no different from any other Council property asset; we are regularly approached with proposals for purchase or lease of council owned land or buildings. We respond to all. Many are rejected as unacceptable, some we talk further on, and some result in a sale or lease.

3. Riley Marine Ltd is a dredging company who are interested in the Harbour for a base of its dredging fleet in return to dredge Ventnor Harbour Free of charge, please can you confirm this or not?

They might well be, I have had no discussions with them about that. I would be prepared to consider the sale of both harbours to a single entity if that proved best as a whole. In any event any sale of either would be heavily covenanted to ensure that the primary purpose of both Harbours was retained. As you know, most harbours have a mix of leisure and commercial craft. In my view the primary purpose of Ryde is as a marina for leisure craft, but I know that there is legislation which says that you have to have very specific and sustainable reasons for denying use of a harbour to any specific type of craft, and that's primarily for safety reasons.

4. Riley Marine Ltd (owned by a Mr Stephen Higgins) was dissolved on 2nd October 2018 and a new company was established in August 2018 called Riley Marine Services Ltd, is this the company now in talks with IW Council?

I have no details as to ownership and management of any of the interested parties, but no doubt if this is taken further it will be available,

5. The Seawall that surrounds the Harbour is under the management of the Coastal Team as a sea defence system, would the seawall remain under the jurisdiction and responsibility of the CT? The Environment Agency are responsible for the current work on the beach side of the Harbour, as a local stakeholder are they being consulted in regard the future of the Harbour?

As yet we have no proposals for the future ownership of the harbour and until we have something of substance there wouldn't be anything we could say other than speculation. I'm sure the Environment Agency will require the same standards wherever ownership lies, as they do with all other harbours and marinas around the Island. The maintenance of the harbour wall is an essential part of it being a harbour.

6. There are reportedly 93 berth holders, have they been consulted and what are their principal objections?

There is nothing as yet to consult about, all we are doing, is giving an approval to see what interest there might be. The berth holders might want to consider putting in an offer to purchase. That has happened in marinas elsewhere in the country. Of course, if we were to consider a sale, then we would advise them. It could be to RTC. I don't know what their principal objections might be. My guess is that most berth holders have a concern that their berthing price would rise. At the moment I would expect that their primary concerns are with the poor facilities available, the deterioration of the pontoons, the lack of regular dredging and so forth. I had a yacht myself for many years, in a marina that changed hands from time to time and those were the concerns whenever there was any change of ownership.

7. Ryde Town Council has asked for a meeting with IW Council since their Motion at RTC Full Council Meeting on 3rd December and wish to seriously discuss the Town Council having first option. RTC are considering applying to IW Council for registration of the Harbour as a Community Asset under the Localism Act 2011. Would you Support this Action?

I have no concerns at all about registration as an asset of community value or considering RTC as a preferred purchaser, subject to further talks with them. As you know I've been happy for that to happen with other properties, such as Appley Tower.

8. The title deeds for the area including the Harbour includes a wider area, how will the title deeds be changed and could areas like Eastern Gardens be included in discussions with RTC?

Until we have expressions of interest, I can't say what the ultimate best proposal would be. I can say that the definition of best would have to include both the interests of the Town, represented by the Town Council, as well as IWC's wider interests across the Island. In my experience of managing another County Council's property over a quarter of a century, doing some soft market testing generates all kinds of proposals including ones you didn't think of.

9. There seems to a variety of figures mentioned in regard the investment needed for the harbour which varies, what is the breakdown on the estimates needed for bringing the Harbour back into good repair?

Routine maintenance will include dredging, which based on previous costs could be around £150k. That needs to happen every few years and is currently overdue. There is ongoing maintenance of pontoons and walkways and full condition surveys will be needed to determine the amount of repair and replacement required. The cost of replacement will be largely dependent upon the specifications for the work and the materials used. There is substantial work overdue on the walls. A reasonable guess, based upon the cost of similar work elsewhere is a potential capital cost of circa £1M. I haven't included in this any costs of bringing the marina facilities up to date, such as modern showers, toilets, lighting and so forth. We have had many complaints about the poor quality of facilities, largely because other marinas around the Solent have upgraded so inviting unflattering comparison. My guess is that doing the upgrade work would be between £500k and £1M which would include up to £200k of VAT. So a potential bill of up to c£2M.

10. How does the proposal to dispose of the Harbour relate to regeneration plans for the area?

Any change to the ownership of the harbour would be with potential regeneration in mind. To ensure any change in status doesn't affect wider regeneration proposals covenants and reversion clauses would be included. This is common in all local authority development to ensure that normal changes, maintenance and development can continue and are not stymied because of future wider development which may take many years to come to fruition.

11. Some years ago, the Harbour was reportedly nearly sold to Bembridge Harbour Owners, Malcolm Thorpe, was this true and is there any information about this? And is BH still an interested party?

As to the first part, that was before my time I'm afraid. As for the second I'm unaware this time around of any interest from that direction.

After seeing recent correspondence from Ryde Society's Chair, Stella Davies, I am very concerned that Ryde Harbour is becoming a very contentious issue with the Ryde Community, and personally feel that any delegated decision be postponed until there are open talks with Ryde Town Council and the issue goes through a Scrutiny process. I feel that the matter is best placed with Cabinet as opposed a delegated decision so it goes to Scrutiny as a matter of process.

As I've said, I think the final decision on any potential sale and if so, to whom should be taken by Cabinet because of the wider Island and Town concerns. This present decision is simply to look for potential interest. Without it nothing will happen. That will certainly mean that the harbour will continue to deteriorate, and losses will continue simply because in the Council's present financial position we cannot justify spending the kind of money needed to prop up what is a limited leisure facility. The situation is even worse with Ventnor harbour. You would quite rightly be protesting vigorously if we were to divert the Council's limited resources to this when we are struggling to maintain statutory services to some of the most vulnerable people in our community. This will become more difficult with the £16.5M of revenue savings or additional income we must find over the next three years.

Finally, you refer to the letter circulated from Stella Davies which quotes John Dent. The only bit that has substance is that "the focus of Ryd Esplanade regeneration will be on leisure and recreation"; that is correct. Both I and Officers have said this publicly. Other bits are just plain wrong. There have been no negotiations, so far just informal enquiries and responses as we have all the time with council property across the Island. I am not pushing any sale through by Christmas. We have not yet had discussions with RTC and we have not even put in hand any soft market testing.

I have no idea where the suggestion that I was involved with any sale of Ryde Town Hall comes from; when I became a Councillor, for the first year I was Cabinet Member for Adult Social Care; I had nothing to do with property. Then after the election, for the next four years I was in opposition. As for the comment about me advising Ryde residents to move to Yarmouth, you know me better than most and can judge for yourself. I don't live in Yarmouth, I can't afford it, it's just one of 14 separate communities in my ward, which is the largest on the Island.

I'm happy for you to share this email with who ever you think fit. I have added Stella to my response to you, as she has circulated the earlier information, which I note she quite rightly dubs as incredible.

Happy to discuss this with you in early New Year in more detail.

Wishing you you a very happy Xmas and New Year.

And my best wishes for the same to you and your family, Kind regards, Stuart

Best wishes

Michael

Cllr Michael Lilley - Ryde East Ward

Tel: 07769551578

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Begin forwarded message:

From: <Michael.Lilley@IOW.GOV.UK>

Date: 9 January 2019 at 12:23:19 GMT

To: <Stuart.Hutchinson@IOW.gov.uk>

Cc: <Jennifer.Beresford@iow.gov.uk>,

<Paul.Thistlewood@IOW.gov.uk>,

<andrew.garratt@iow.gov.uk>,

<ian.Stephens@IOW.gov.uk>,

<stellarankindavis@live.co.uk>,

<chris.turvey@rydetowncouncil.gov.uk>

<clerk@rydetowncouncil.gov.uk>,

Subject: Delegated Decision - Ryde Harbour

Dear Stuart,

I am writing with slight dismay, after reading the wording of the delegated decision which in my view does not reflect verbal discussions and written correspondence between us. I wish to make the following 4 points:

The Delegated Decision does not:

1. Clearly state that Ryde Town Council has voted positively on a motion to have talks with IW Council and discuss IW Council selling the Harbour/Leisure Marina for £1. You have clearly indicated verbally and in writing you would consider this option seriously. You have also indicated you would support Ryde Town Council using the Localism Act 2011 in getting the Harbour listed as a community asset. I would ask you to reword or amend the delegated decision to clearly state this is an option to be explored and that you recognise Ryde Town Council has rights in challenging IW Council in selling part of the Public Realm that was and is part of public land bought by the Borough of Ryde in the 1930s.
2. Clearly state timeframes and that any future or final decision is to be made by Cabinet which you have indicated verbally and in writing to me. The delegated decision should clearly state dates when this feasibility study period on options is to be carried out by and that any future decision would be by Cabinet. This would avoid the ambiguity within the current wording.

In addition

3. I feel Ryde Town Council should be named as a preferred interested party to takeover the Harbour. The responses to you as listed in Appendix A clearly indicate that the Ryde Community desire this outcome. I will encourage Ryde Society to instigate a petition and get the 2500 signatures to trigger a Full Council debate on the matter.
4. There has to be recognition that the Harbour is an integral part of the Ryde Esplanade Regeneration Plan and process and that any decision on the future of the Harbour has to integrate and be compatible with any future plan.

Please can you reply by Monday 14th January 2019 as I have 5 working days from the 7th January as a Scrutiny Member to Call-In the decision. I will call-in the decision if the four above verbalised and written statements already made by you in principal are not clearly part of the delegated decision.

I look forward to resolution of this contentious issue. Thank you for your due diligence in regard the above.

Best wishes

Michael

Cllr Michael Lilley - Ryde East Ward
Tel: 07769551578

RECORD OF DECISION TAKEN UNDER CABINET MEMBER DELEGATED POWERS AT
COUNTY HALL, NEWPORT, ISLE OF WIGHT ON 7 JANUARY 2019

**THE CALL IN PERIOD FOR THIS DECISION EXPIRES AT 5.00PM ON 14 JANUARY 2019.
THE DECISION CANNOT BE IMPLEMENTED UNTIL AFTER THAT DATE.**

Present: Cllr Stuart Hutchinson - Cabinet Member for Resources
 Jennifer Beresford – Democratic Services Officer

Item	<u>Review of Council Assets - Ryde / Ventnor Harbours</u>
Reference	13/18
Notice of Decision Published	26 November 2018
Decision taken	<ul style="list-style-type: none">(i) To offer the freehold/leasehold of Ryde harbour on the open market with a restrictive covenant that it be only used as a harbour/marina; such covenants to only be removed if an alternative use of the area could generate a significant and sustainable economic benefit to Ryde and/or the Island. Any consideration should include a reversion to allow for any future development of the seafront.(ii) To offer the transfer the management of Ventnor Harbour to a third party through the open market at no cost to the council;(iii) The final agreed terms of any transfer/outsourcing to a third party be to be the subject of a further decision of the Cabinet, but where no terms are agreed then the council will continue to directly manage the harbour.
Reason for decision	<ul style="list-style-type: none">1. The provision of the harbours is not a statutory duty of the council. It has not previously been included in the council's proposed plans because the council continues to fund and operate the harbours and has not yet made any decision as to whether it wishes to cease doing so. Given the pressures on public sector finances in general and the council in particular the council would need to give some consideration to its aspirations for the harbours, a discretionary service, in the very near future.2. Central to these considerations will be the potential capital and

	<p>revenue expenditure that will be required for both harbours to remain open. This would be a minimum of £238k for the major dredging of the Ryde harbour and may at some time include the cost of replacing the gabions that make up the harbour arm (previously estimated at 800K in 2006. Which becomes £1,062k at current pricing). Nevertheless when these works are due the council will have a choice of prioritising these works above other priorities for its limited funding. With regards Ventnor Haven it continues to operate the harbour with a net deficit of £65k which includes the £75k per annum cost for the removal of seaweed.</p> <ol style="list-style-type: none"> 3. Securing private sector or alternative public sector investment in the operation of the harbours, through its transfer of the freehold/leasehold for Ryde and for the outsourcing of the management function for Ventnor, may permit the harbours to be sustained without additional council input or cost. 4. Any private sector investor/developer or alternative public sector investor that may acquire the harbours would wish to invest in the facility in order to ensure that it remains viable for the foreseeable future. This in itself may begin to improve the overall attractiveness and environment of the seafront and could encourage others to invest in the area. 5. Securing a private sector owner for the harbour could therefore provide an opportunity for the council to both resolve the medium term future of the harbours and provide a possible catalyst for other investment into the Seafronts. How well these objectives can be achieved can only be evaluated following this process that involves openly marketing the harbours and evaluating all of the bids received for it against these criteria.
Additional reasons	Any change in status is of very significant interest to the communities concerned and therefore should properly be a decision of cabinet rather than taken under delegated authority.
Options considered and rejected	<p>To offer the freehold/leasehold of Ryde harbour on the open market with no restrictive covenants</p> <p>Not to offer the freehold/leasehold transfer of Ryde harbour.</p> <p>Not to offer the management of Ventnor Harbour to a third party and continue to fund the current deficit.</p>

Representations Received	Appendix A
Declarations of interest	None declared.
Additional advice received	No additional advice required.

APPENDIX A

From: Ryde Town Council Clerk

Sent: 04 December 2018 13:35

By email

At a well attended meeting of Ryde Town Council yesterday evening the Town Council agreed the that the following representation be submitted to you before the above decision is taken in respect of Ryde Harbour:

"Ryde Town Council objects to the recommendations contained in the Delegated Decision Report in regard to Ryde Harbour and asks that the Cabinet Member for Resources attend a public meeting in Ryde to discuss alternative options with the Ryde community within the next two weeks, which should include the option of the Isle of Wight Council selling the Harbour to Ryde Town Council for a £1."

You will see from the above wording that there is now an expectation that a public meeting be arranged within the next two weeks at which Ryde residents can have an opportunity to express their views on the future of Ryde Harbour. I understand from Councillor Whittle, who is copied into this email, that he may well have emailed you about the IWC arranging this meeting? Alternatively, the Town Council could arrange the meeting based on your availability. Please do let me know if/how you would like to take this forward. Councillor Malcolm Ross, Ryde Mayor is also copied into this email along with Councillor Michael Lilley who proposed the above wording.

From: Stella Davis

Sent: 11 December 2018 11:46

By email

We are very concerned by the recent proposal under delegated powers to offer the freehold/leasehold of Ryde Harbour for sale, particularly as it is suggested that there is already interest from a number of 'developers'.

This would seem contrary to what we, the Ryde Community, have been promised by The Isle of Wight Council - that we would be consulted on the future of our seafront. (You might, I realise, argue that we have indeed been consulted - but just not listened to - but I don't think this is the moment for semantics). Every 'consultation' has highlighted the importance of the site to the Georgian town, to its people, to its amenities and to the ecology that the sea beyond it holds - it has the highest levels of protection available in the UK both in terms of its Conservation Area and its SSSIs and Ramsar.

We are looking forward to Mr Ashman's presentation on the 'rethink' for the whole of the Esplanade at our meeting on 14th January, but are concerned that by then, it may

already be too late to develop an inclusive overview of the regeneration of the whole seafront as an integral part, the harbour, may already be moving into private hands.

There is much assumption, rumour and inaccurate information concerning what surrounds this particular delegated decision process and The Ryde Society would very much appreciate an accurate insight, by someone directly involved, into how this fits with the new overall plan for the future of the Esplanade and beach at Ryde - which we have not yet seen.

This is an area of great community interest and not one that should be sold off without its being part of the larger regeneration project. Surely consultations funded by the IOWCC and representations and proposals by the community, through their representatives Ryde Town Council, and through The Ryde Society should be listened to before this delegated decision is finalised?

There is some urgency to this and I would appreciate a detailed reply on the status of this decision before it is finalised, so that I can forward to our members.

From: Gerald Davison
Sent: 04 December 2018 09:02
By email

I write to you as a resident of Ryde and a member of The Ryde Society, as I am very concerned about reports that the IoW Council is considering the sale of Ryde harbour out of public ownership.

There does not appear to have been proper consultation with the people of Ryde over what could lead to a disastrous outcome for the amenities that we currently enjoy and the future of the Esplanade area. The long term possible loss of this important asset could have a serious impact on the quality and attractiveness of North East Ryde.

I do hope you will ensure that this issue is properly addressed with full and urgent public consultation so that I and other residents will have the opportunity to hear from your council directly and for us to be able to raise our concerns in a public meeting.

From: John Bowler
Sent: 03 December 2018 21:38
By email

I'd like to take this opportunity to raise my concerns and opposition to the proposed sales of Ryde harbour.

Having taken part in several public consultation events on the subject of Ryde regeneration I was surprised that this decision was taken, before any public announcements about the regeneration were made.

Bearing in mind that the overwhelming public opinion was not for large scale property development to take place , but rather the development of public owned, public spaces and buildings, something that would preserve and improve the character of Ryde esplanade and beaches, it seems that your proposal goes against the public wishes.

At several points during the consultation we were given the impression that the Isle of Wight council were reconsidering selling off public land to private developers.

I think you owe the people of Ryde a full explanation of your decision process, coming to a public meeting in Ryde would be a good start.

Otherwise this could be perceived as an attempt to push the sale of the harbour through on the quiet and thus opening the door for further sales and/or development, on Ryde seafront.

From: Joan Wheelton
Sent: 30 November 2018 16:38
By email

Please see my attached response to the consultation of berth holders in Ryde Harbour. My response is on behalf of the Vectis Boating and Fishing Club who are permanent berth holders in addition to constant users with a 125 year lease giving free access to the water through the harbour, and on behalf of myself as a member of Ryde community.

Proposed sale of Ryde Harbour

I have seen your Delegated decision report paper 13/18 and am responding on behalf of Vectis Boating and Fishing Club as an interested party and as a member of the Ryde community.

Executive Summary

You state that the Council has received offers by private investor/investors (ie a small number) expressing interest in purchasing Ryde and Ventnor Harbours. You state that the harbours have not previously been included in the list of assets considered for sale by this Council however without consultation of Ryde Town Council (as I understand it) or any of the interested parties (including the community) you now appear to be rushing this proposal through. Your Forward Plan of August 2018 lists consultees as ‘relevant officers, members and stakeholders’. Paras. 16 and 31 of your paper 13/18

commit you to consultation of ‘all interested parties’. Is an email to berth-holders your version of ‘wider consultation’ (para 16)? I would suggest that included in ‘interested parties’ should be the population of Ryde.

As a major stakeholder, with a 125 year lease on its premises on the understanding that safe launching access through the harbour would continue for that period, and being a permanent berth-holder, Vectis Boating and Fishing Club has not been consulted. I have seen your email to berth holders sent 27 November 2018 inviting representations by 5pm on Tuesday 4 December 2018 implying that the decision will be made soon thereafter. In my view in your haste to make a decision your failure to consult does not meet your obligations to stakeholders and to the community of Ryde as an elected Council.

Background: Ryde Harbour

You stress the Council’s financial difficulties and its need to generate savings, yet you use the profits from Ryde Harbour to defray the costs of Ventnor Haven. I would argue that Ryde has a case to be treated independently of Ventnor, and whatever decision you reach should be based on the value of Ryde as gateway to the Island for visitors. Ryde needs to offer an attractive entrance to the Island, and to offer amenities which persuade people to come and stay within the town area. You acknowledge that Ryde Harbour is a popular marine destination, attracting 26,000 or so visitors a year. It has been estimated that this brings some £2m annually to the local economy. It is widely acknowledged that the Ryde seafront area is in dire need of investment and upgrading, including the harbour, but selling off parts of the area piecemeal will not help. It needs an overall plan, which I understand has been the objective of the IW Council’s Regeneration Plan, which largely relates to the Ryde area. You will also be aware that Ryde Town Council has recently produced an Outline Planning Document and the IW Chamber of Commerce has produced a Master Plan (2015) which was endorsed by RTC and resulted from extensive public consultations as well as with both RTC and the IW Council. Selling the harbour at this stage without such a plan would inhibit any further attempts to improve the seafront to make the town more attractive to visitors. The tourist industry is the Island’s lifeline. If the Island is to survive economically it needs to invest rather than sell capital assets for short term cash solutions. The sale of Ryde Town Hall is a case in point. The building was sold cheaply and has been left to deteriorate. The ice rink, which previously attracted huge numbers and renown for the Island’s hockey team, is closed. The harbour, despite lack of maintenance and dredging, reducing access times depending on the tide, and facilities which fall ‘below RYA

recommended standards', still thrives and makes a profit, and provides a focal point for Ryde seafront.

Financial/Budget implications

Your paper para. 17 refers to projected costs to IW Council over the next ten years if it retains management of the harbour of some £1.2m. However, you have recently obtained funding and carried out the diversion of Monkton Mead Brook through the harbour, which while being an attempt to alleviate the flooding problems in Ryde was also anticipated to reduce the need for dredging. Until the work is completed and given time to take effect you could not be in a position to estimate future costs of dredging the harbour. Having just gone to such expense do you really plan to immediately hand over the benefits to private enterprise? Also, any agreement you might reach with a future owner/leaseholder would need to incorporate the Council's responsibility to maintain the drainage system.

Legal implications

Para. 22 states that you have still to research any Covenants which might apply to the area in favour of the Lind and Brigstocke estates. I am aware of at least one covenant which requires building height in the Esplanade area to be restricted to 25ft. The Vectis Boating and Fishing Club was made aware of this when building its new Clubhouse in 2001. Another point which comes to mind is the fact that the Harbour is in a Conservation Area. We were reminded of this when proposals were made to install a security gate at the harbour entrance. No doubt these points will be brought to the attention of those drawing up the documents.

Vectis Boating and Fishing Club (Established 1861)

The Vectis Boating and Fishing Club's new premises on Ryde Esplanade were funded by IW Council £34,000, Sport England Lottery £88,000 and members £7,500. The whole enterprise was made viable and predicated on the existence of the harbour and public slipway. We were granted a lease for 125 years which long lease was a requirement insisted on by Sport England, and it is paid in full. Without safe, protected access to the water the Club could not function. We have 7 Club boats and 20 private boats in the compound. The Club has a close connection with Ryde Town Council, supporting each other's efforts to involve the Ryde community, especially by connecting with young people in order to teach them about fishing and conservation, and teaching them boating skills in a safe environment.

The Public Slipway

One of the first points from your proposal to sell or lease the harbour that concerns us is the proposed clause that any covenants to retain the area as a harbour/marina could be removed 'if an alternative use of the area could generate a significant and sustainable economic benefit ...'. With regard to the slipway itself, this is a Public Slip, and should remain so. When the harbour was built it incorporated the previous public slip, which lies under the car park behind the Ryde Pavilion. We have been advised that a public slip has equivalent status to a public footpath, and while it can be diverted, as it has already, it cannot easily be removed. It should therefore not be part of any sale or lease agreement with a private enterprise, and continued free and cost-free access to the sea should be maintained by IW Council. The slip is used by hundreds of local boat and watercraft owners every year, and loss of cost-free access to the sea would have a major impact on the Ryde community as well as those most closely connected with the harbour.

Options

To move to Councillor Hutchinson's recommendations, para. 38. I will restrict my comments to those that affect Ryde.

We could support Option 1, subject to IW Council retaining the freehold of the harbour, guaranteeing maintenance of the slipway and cost-free access to the sea for all, and providing that should the leaseholder wish to discontinue using the area as a harbour/marina it would revert to IW Council. All interested parties should then be consulted on any future consideration of development of Ryde seafront following such reversion. We also think that the leaseholder should be required to carry out any improvement works within an agreed timetable, to avoid the harbour being left to deteriorate further awaiting some unknown event as in the case of Ryde Town Hall. The IW Council should have the right to re-claim the harbour if the new management are in default – Ryde cannot afford for this important facility to become derelict.

Option 6 – With regard to your proposal that a single nominated Cabinet member of IW Council be solely responsible for the final decision we think this is not appropriate. All decisions affecting a community should be made in an open and answerable way. We believe this would be a decision for the Full Council to make.

Finally, I would like to see the promised wider consultation (para 16 of paper 13/18) actually take place.

From: Tim Wakeley
Sent: 29 November 2018 16:36
By Email

In the spirit of open consultation this letter is open.

I have been a berth-holder in the Ryde Harbour in excess of 12 years.

Thank you for the invitation to comment on your Delegated Decision Report and for the 3 x full working days you have kindly granted me and other stakeholders to construct a full response.

Paragraphs 16 and 31 both refer to local consultations – is this it????

I do not believe that you have consulted in any meaningful way with the Ryde Town Council despite Member promises to do so. This suggests that, once again, the IW Council is ‘doing to Ryde’ rather than engaging with the locally elected representatives that make up Ryde Town Council.

It is a shame that the future of the Harbour, as outlined in your report, has hardly been discussed as part of the regeneration of Ryde Esplanade. In this context I would argue that the proposed disposal is more than a little premature. Any disposal must protect the potential for Esplanade re-development and regeneration and must not allow for a third party to be able to unduly influence the future regeneration of Ryde Esplanade. Your Council has a terrible record in this regard when we look at the consequences visited on Ryde residents through the hasty disposal of the Town Hall and the lease associated with the Ice Rink.

Ryde Harbour users have been poorly served over time with the lack of investment in infrastructure and the failure to regularly dredge the body of the harbour. The consequence has been for there to be less and less time afloat for harbour users whilst costs rise. In this regard it would be pleasing to have a managing body that was required, as a condition of the lease, to dredge the body of the harbour on a scheduled, regular basis; provide electricity and water to all users and undertake the proper upkeep of the pontoons as well as upgrade the toilet and shower facilities for visitors. All of which your authority has failed to do.

Ryde Harbour is an important public leisure and recreational facility that adds dimension and interest to the Esplanade. It must be retained as such, as should ready access to the important public slipways.

Currently the Harbour Office is located on the internal arm (over the new inlet). The only access for most craft is opposite the Harbour Office, down the one pontoon. There is another point of access for small craft moored on a pontoon that is accessed via the slipway and car park. Any new arrangement should require the re-location of the unsightly and ‘not fit for purpose’ Harbour Office to be re-located adjacent to the car park slipway with the current access point for all berth-holders and visitors to also be at this point by extending the existing pontoon. This will remove the current high risk that your council has perpetuated whereby berth-holders servicing their craft have to drive along the Esplanade to the drop off point competing with pedestrians, children and dogs as well as the Esplanade café seating and tables and ice cream parlour users. There is no need for this risk with a little careful re-design work. These thoughts have featured regularly on the Regeneration Team Consultations – have you seen them?? Do you know about them??

Access to the Harbour by the Vectis Boating and Fishing Club must be enshrined in any leasehold agreement as must access by the general public via the public slipway.

In pursuing your collective desire to relinquish responsibility for the management of Ryde Harbour I would urge that it is the management and operational functions that need to be delegated to a responsible organisation but that the freehold be retained by the people of Ryde through your retention of the freehold. Therefore a leasehold arrangement, with the necessary safeguards built in should be the way forward.

Your paper identifies that Ryde Harbour receives in excess of 26,000 visitors each year. Calculations demonstrate that this brings in in excess of £2m to the economy of Ryde on an annual basis. This in addition to the small operating profit generated each year. Had your council operated the Ryde Harbour in a business like way over the years by budgeting for the anticipated (known) capital costs of dredging , gabion repairs and other maintenance and improvement items the costs now facing the IW Council would not be so daunting. It is your collective failure to manage this and other facilities effectively that has created the sense that the only way forward is disposal.

You will, by now, have got a sense of my anger that you as custodians of local facilities and amenities have again failed so totally and we are all having to pay the price. This cannot in any way shape or form be blamed on Brexit or Austerity but purely and simply on very poor local management. Let us hope that new management arrangements will, in time, work to remedy your legacy and enhance our wonderful Esplanade.

From: Lilley, Michael
Sent: 20 December 2018 14:02
By Email

Although, the consultation period date has passed, I have now come privy to further information that I wish to share and ask for clarification:

1. There seems to be the indication that there have been 4 to 5 expressions of interest in the Harbour, which seems incorrect.
2. Riley Marine Ltd appears to be the only company that has active talks with IW Council and this has been going on for nearly 18 months, please can you confirm this?
3. Riley Marine Ltd is a dredging company who are interested in the Harbour for a base of its dredging fleet in return to dredge Ventnor Harbour Free of charge, please can you confirm this or not?
4. Riley Marine Ltd (owned by a Mr Stephen Higgins) was dissolved on 2nd October 2018 and a new company was established in August 2018 called Riley Marine Services Ltd, is this the company now in talks with IW Council?
5. The Seawall that surrounds the Harbour is under the management of the Coastal Team as a sea defence system, would the seawall remain under the jurisdiction and responsibility of the CT? The Environment Agency are responsible for the current work on the beach side of the Harbour, as a local stakeholder are they being consulted in regard the future of the Harbour?
6. There are reportedly 93 berth holders, have they been consulted and what are their principal objections?
7. Ryde Town Council has asked for a meeting with IW Council since their Motion at RTC Full Council Meeting on 3rd December and wish to seriously discuss the Town Council having first option. RTC are considering applying to IW Council for registration of the Harbour as a Community Asset under the Localism Act 2011. Would you Support this Action?
8. The title deeds for the area including the Harbour includes a wider area, how will the title deeds be changed and could areas like Eastern Gardens be included in discussions with RTC?
9. There seems to a variety of figures mentioned in regard the investment needed for the harbour which varies, what is the breakdown on the estimates needed for bringing the Harbour back into good repair?
10. How does the proposal to dispose of the Harbour relate to regeneration plans for the area?
11. Some years ago, the Harbour was reportedly nearly sold to Bembridge Harbour Owners, Malcolm Thorpe, was this true and is there any information about this? And is BH still an interested party?

After seeing recent correspondence from Ryde Society's Chair, Stella Davies, I am very concerned that Ryde Harbour is becoming a very contentious issue with the Ryde

Community, and personally feel that any delegated decision be postponed until there are open talks with Ryde Town Council and the issue goes through a Scrutiny process. I feel that the matter is best placed with Cabinet as opposed a delegated decision so it goes to Scrutiny as a matter of process.

Happy to discuss this with you in early New Year in more detail.

From: Janet Welsh
Sent: Friday, November 30, 2018 2:39:45 PM
By Email

In the last couple of days I have received an alarming email from the council, concerning the future of Ryde Harbour. We have been given little time to respond, it seems to be going through very quickly, with "no news" posted on all you councillors' web pages.

To many people this is a matter of some importance.

I have had a small boat in Ryde Harbour for 4 years, and hope to keep it there for the future. My income is not high, like many users of Ryde Harbour, but I can afford my hobby because Ryde is a simple and inexpensive harbour. There are not many alternatives. We are not well off yachties, but with us mixed bunch of permanent berth-holders, and the many regular and occasional visiting boats, the harbour makes a good profit.

Most of the postcards of Ryde show a picture of the harbour, it is a feature of the town, an attraction for visitors between the transport hub and Ryde's fabulous beach.

Please don't let this fabulous and popular facility be lost, now or in the future.

We are relying on you to protect it on our behalf.

From: Anmarie Bowler
Sent: 03 December 2018 20:41
By Email

I am writing to express my extreme concern for plans to sell Ryde Harbour to a private developer. This, to me, seems like only the thin end of the wedge, and is both concerning and frankly disheartening.

I took part in several of the consultations regarding Ryde's redevelopment and was more than heard it expressed that members of the IOW Council were having a "re-think" after hearing from Ryde residents. It seems the so-called re-think has brought you back

to the same old, preconceived idea, an idea that members of the community have REPEATEDLY said they are against - as is Ryde Town Council.

Before moving any further it seems to me members of the IOW Council MUST come to Ryde, engage in a PUBLIC meeting and answer pressing questions and concerns from the residents of Ryde.

From: Patrick Mill

Sent: 04 December 2018 09:19

By Email

As you no doubt know there was a public meeting last night in Ryde where councillors met around 70 members of the public to discuss amongst other things Ryde Harbour.

In summary, there was a combination of anger and disbelief in the way the future of Ryde seafront appears to be planned by your council.

The views of the residents of this town have not been sought. Decisions are being taken in secret.

Regeneration appears to be a euphemism for licence to developers to build apartment blocks. If the plan for five tower blocks goes ahead, they will almost certainly be bought as second homes. How would that benefit the Island?

I ask that you adopt a more democratic approach. Seek the views of Ryde residents and consider improving what Ryde already offers.

From: Lilley, Michael

Sent: 03 December 2018 18:40

By Email

My Comments on Delegated Paper on Ryde Harbour as follows:

1. This proposal seems in contradiction with the new Ryde Town Council position statement.
2. This proposal seems in contradiction to all the consultation undertaken by the regeneration team with the Ryde Community where it was overwhelming expressed that Ryde residents wanted all the Esplanade to be kept within the public realm and primarily be for community and tourist use.

3. Research into the success of private harbours in public estates shows they simply do not work. A significant enterprise in the middle of a public area will just make it very difficult for any future development. There is a real danger of an investor creating a much higher hope value pinned to the development of the whole Esplanade. This is exemplified by AEW which owns a 100 year lease on the derelict Ice Rink/Arena which invested in the purchase of the lease to have the opportunity of further Esplanade development. Their hope value has put the lease at a value of over £3M on the books. There is a real danger AEW in the open market would buy the Harbour which would be disastrous.

4. It is viewed that you cannot effectively covenant public benefit to a private business.

5. Ryde Harbour should be separated from Ventnor which is totally a different make-up. Ryde Harbour needs investment but it does make a profit and could with support make more of a profit. Why cannot IW Council Link with RTC and through the Public Loan Board borrow funds to re-invest in the Harbour as the first stage of increasing potential income and opportunities in the Esplanade. This would be supported by the Community. Ryde Harbour should be included in the IW Council Harbour Committee and through the Committee in consultation with RTC have a full business plan developed with community consultation .

I as the member for Ryde East, totally object to the options as proposed in the delegated paper and ask, the Cabinet Member, to reconsider options including the above suggestions in 5.

From: Lilley, Michael
Sent: 30 December 2018 13:51
Sent by Email

After reading, Stella's email to you on behalf of Ryde Society, I feel moved to respond as she does raise some important points and adds to the ever increasing contentiousness of this specific delegated decision in regard Ryde Harbour.

Firstly, I do understand this subject can be best described as a "indsight is a perfect science" and "you are damned if you do and damned if you do not" decision. However, I do feel the best course of action would be:

1. Consider withdrawing the delegated decision until discussions have been undertaken with Ryde Town Council with consultation with local stakeholders such as Ryde Business Association and Ryde Society amongst others. One suggestion is RTC consider establishing a Harbour and Community Asset Working Group within its constitution and this Group could explore options with IW Council. I do think getting into discussions with other interested parties would be premature until RTC has agreed a way forward with IW Council in consultation with other community stakeholders.

2. The points raised by Stella regarding conflict of interest should be explored by the Monitoring Officer and therefore I feel it be better to withdraw the delegated paper and put the whole issue on the Cabinet Agenda. The Cabinet could then clarify how best to proceed and these can then be scrutinised by Scrutiny Committee. This would give more transparency and reduce confusion. On reflection, I do feel that the responsibility of Ryde Regeneration moving to you as Cabinet Member of Resources due to Cllr Whittle being a business owner in Ryde and local Ward member with Ryde Esplanade and Harbour in his Ward perhaps needs to be revisited. Stella does raise a relevant point that there could be more conflict between your role in maximising value of assets and getting a balanced budget and the regeneration needs of Ryde Town, which naturally by their nature could be at odds. I do feel this issue has become contentious due to the process of consultation with the community and RTC regarding the regeneration of the Esplanade has clashed with the need for the Council to resolve immediate budgetary and liability issues in regard the Harbour/Leisure Marina. It would be good to get resolution of the perceived areas of conflict so everyone is clear and there is an improved transparent way forward in regard Ryde. There is always going to be grey areas but this should be covered by existing protocols in place and I am sure the Monitoring Officer can resolve this satisfactorily for all those involved. I feel withdrawing the delegated decision and referring it to full Cabinet in my view would be the first step in the right direction. I also feel a strategic decision to have all areas that encompass Regeneration of Ryde be formulated into a transparent process and channel and again this could be through RTC and a working group process. It has to be mentioned that IW Council's own Regeneration Team's development process has inspired healthy involvement of Ryde residents and organisations, and therefore there needs to be a transparent vehicle to make sure any decisions about Ryde's future and the future of any community assets are decided through a process everyone can see and interact with and meet community aspirations (encouraged by your Regeneration officers).

I thank you for your due diligence in this matter and welcome your response. I again wish you and your family a wonderful New Year.

From: Stella Davis
Sent: 29 December 2018 20:37
Sent by email

You may have been somewhat puzzled by correspondence in which I stated that you had suggested (to me) that if I wanted somewhere nice to live, I should forget about Ryde and consider Yarmouth - where your ward is. If you are unable to recall the occasion, it was at the first meeting of the Regen team at the Ryde Castle in May when you were chatting to my Swiss guest and I came to join you. It was said in jest, but my concern is that you are in charge of the regeneration of Ryde. It is worrying to think that you are prepared, even as a joke, to imply that Ryde is something of a dump and has little future.

Were the IOWCC - both Councillors and officers, to have a more positive, integrated and proactive view of Ryde Conservation Area with its 400+ mainly Georgian, listed buildings and one of the best beaches in the South of the UK, the town would begin to thrive, increasing jobs and reducing the need for benefits in the town. This alternative will, we hope, be presented to us by Mr Ashman on 14th January at the meeting of The Ryde Society at 7p.m. in the Royal Esplanade Hotel, and you are welcome to attend.

Selling off our leisure marina or even seeking 'expressions of interest' is certainly not the answer to regeneration. As far as we can ascertain, Ryde Marina is profitable and has been since 1994, creating a profit in the region of £100,000 since then (not a lot, but not a loss making asset). So why search for 'expressions of interest' for a profit making asset? Perhaps loss makers like the floating bridge might make more appropriate asset sales. That has cost and is costing and will cost considerably more than Ryde marina.

In our view, your position as Deputy Leader and Cabinet member for Resources is in direct conflict with your role as the member in charge of regeneration of Ryde.

I would also suggest that there is something of a conflict of interest were a councillor who is Cabinet member for Resources and an occasional member of the Planning Committee of the IOWCC to put forward the possibility to sell the marina, for short term financial gain. Even if this were only as an 'expression of interest', there are dangers for the community and it is not a 'sustainable' solution. Were the eventual sale to be to a private firm, it could be the beginning of the end for Ryde Esplanade as the harbour area could then be sold on to anyone and a change of use allowed - you would then also be involved in that 'change of use' decision as a member of the Planning Committee. Profits would go elsewhere.

May I also remind you that the section of the coastline which includes the harbour has the highest ecological designation in the UK and Europe with several SSSI and Ramsar protections throughout. Add to that the Conservation Area which extends out into the sea and I wonder why this is being mooted. There is a requirement to 'conserve or enhance' the conservation area. Again, the fact that you are a member of the Planning Committee worries us.

The only possible sale, under these circumstances, which would allow you to maintain political integrity in your current roles would be to RTC. It might then be possible for Riley Marine Services to have a contract with Ryde Town Council, providing some income and thus maintaining an element of a working harbour within the leisure marina, as part of the overall regeneration plan for the Esplanade, being prepared by the Regeneration team.

Were any other solution to be suggested, or put on the delegated decision, we believe that there would be a conflict of interest for the reasons given above.

Given some recent highly unpopular Planning decisions in Ryde, I would suggest that the delegated decision due in a few days should be delayed -if that has not already happened - until we can be assured that there is no conflict of interest between the role of Cabinet member for Resources (who would wish to sell the marina) and the person in charge of regeneration in Ryde, where the marina is an integral part of the vision we have for Ryde, as put forward in the consultations and in the Town Council's position statement.

With apologies for the lack of festive spirit but with best wishes for 2019 and looking forward to a positive outcome for the beginnings of regeneration of Ryde seafront.

I look forward to your reply

Stella Davis
Chair
The Ryde Society

From: John Gardner
Sent: 03 December 2018 21:56
Sent by email

As a berth holder in Ryde Harbour we were surprised that we had not been officially informed of the proposal to sell off Ryde Harbour with virtually no restrictions on the open market.

We only learned about it at a meeting of Ryde Town Council.
We would totally object to such a proposal that might well lead to the closure of the harbour and its development with high rise flats. This is completely against the wishes of the people of Ryde a fact that you have been repeatedly told and is also contrary to any suitable plan for the regeneration of Ryde We would earnestly request you to take up the offer of Ryde Town Council to buy it from you so that it remains a public amenity for the people of Ryde and the Island in general. It also generates much needed income to the locality with the number of visiting yachtsmen often having to moor three deep on summer weekends

From: Janet Welsh
Sent: 30 November 2018 14:20
Sent by email

In the last couple of days I have received an alarming email from the council, concerning the future of Ryde Harbour. We have been given little time to respond, it seems to be going through very quickly, with "no news" posted on all you councillors' web pages.

To many people this is a matter of some importance.

I have had a small boat in Ryde Harbour for 4 years, and hope to keep it there for the future. My income is not high, like many users of Ryde Harbour, but I can afford my hobby because Ryde is a simple and inexpensive harbour. We are not well off yachties, but with us mixed bunch of permanent berth-holders, and the many regular and occasional visiting boats, the harbour makes a good profit.

Most of the postcards of Ryde show a picture of the harbour, it is a feature of the town, an attraction for visitors between the transport hub and Ryde's fabulous beach.



13/18

Delegated decision report

Committee **DECISION UNDER DELEGATED POWERS**

DECISION CANNOT BE TAKEN BEFORE 05 DECEMBER 2018

Title **REVIEW OF COUNCIL ASSETS – RYDE/VENTNOR HARBOURS**

Report Author **DEPUTY LEADER AND CABINET MEMBER FOR RESOURCES**

EXECUTIVE SUMMARY

1. The Council has been approached by a small number of private sector investors/developers expressing interest in acquiring and investing in Ryde and Ventnor harbours. Consideration of such an approach is consistent with the council's agreed strategies. The harbours have not previously been included on the council's published list of possible reviews and therefore members are asked to approve consideration of freehold or leasehold transfer of Ryde by way of an open marketing exercise and with the inclusion of a covenant that the property may only be used as a harbour/marina. With regards to Ventnor, members are asked to consider the external management of the Harbour by a third party. If successful this could result in a significant saving to the council. In the next 10 years the council is not in a position to cover a revenue loss estimated at £515k at current pricing and a capital investment exceeding £1.2.million to cover dredging and repair costs. Consideration needs to be given at this stage to look at the options to protect the future of the harbours.

BACKGROUND

Ryde Harbour

2. Ryde harbour was constructed as part of the Ryde seafront development which included the car park, coach park, the ice rink and bowling alley. The tidal harbour was a later addition to the overall scheme with construction commencing in 1990 and the official opening in July 1991. It occupies an area of 1.8 hectares; it provides half tide access and can accommodate approximately 150 boats through a mixture of long stay (102) and short/overnight stay (48) berths.
3. The harbour is a popular marine destination on the south coast and receives in excess of 26,000 visitors each year; however the shore side hospitality facilities are well below the standards recommended by the Royal Yachting Association and this is a constant source of comments and complaints from harbour users.

4. The operation of the harbour requires essential annual maintenance works including dredging to remove accumulations of silt and beach material from around the entrance of the harbour and the area immediately adjacent to the harbour arm. It has also been necessary to carry out two major dredging operations to remove silt from the entrance channel and across the whole of the harbour area; these were undertaken in 1994 and 2002 at a combined total cost of £208,000. A specialist report produced in 2006 identified that the major dredging would be required every 6-8 years and that the next dredge would be due around 2008/09. It also identified that the gabions which make up part of the harbour may require replacement around 2016/17 and that the likely cost would be in the order of £800k, £1,062k at current pricing. The forecast capital dredge and the replacement gabions have not yet been required but the harbour is being closely monitored, as this work will be required in the future.

Ventnor Haven

5. Ventnor Haven is a small fair weather haven situated on the Esplanade, Ventnor. Part of the facility is used by a local sea fishing and processing company, and there are 5 permanent moorings small number of visitor moorings within the Haven. The 4 offshore moorings situated in deep water used during summer months have been discontinued, as the cost of their placement and removal far exceeded any income.
6. The Council owns the freehold interest of Ventnor Haven and It has granted a 125 year ground lease to a local sea fishing and processing company in an area in the centre of the Haven. The tenant has constructed a building on stilts that sits above the water and which provides for the landing of catch from boats operating from the harbour, a small scale fish processing facility and wet fish retail outlet, together with a fish and chip shop. The tenant is responsible for the maintenance and repair of this facility.
7. Since the Haven was built it has experienced the build-up of microalgae (seaweed), which has caused environmental issues in the town .The annual cost of removing the microalgae is currently £75,120. The cost of removing the microalgae is not sustainable and whilst alternative methods of dealing with the seaweed have been explored, no viable alternative has been identified. .
8. The council is the Statutory Harbour Authority for Ventnor Haven. Statutory Harbour Authorities (SHAs) are responsible for running most operational ports and harbours in the UK. Their powers are derived under a mixture of national and local legislation. Their duties typically include keeping the port or harbour open for the shipping and unshipping of goods and passengers, environmental protection and navigational safety. One of the three main types of SHAs in the UK are statutory ports and harbours run by councils. Ryde is not a Statutory Harbour

Ryde and Ventnor Harbours

9. Given the financial pressures facing the council and the need to prioritise its limited resources towards its statutory obligations the ability of the council to financially support the harbours, a discretionary service, in the short to medium term may be limited.
10. In this context a recent approach to the council by a small number of private sector investors/developers interested in acquiring the harbours is to be welcomed. The

council's duty to obtain best consideration when outsourcing of an asset precludes it from negotiating directly with potential purchasers and requires the council to seek best offers for the harbour before it can consider freehold or leasehold transfer or any form of outsourcing of the management function.

11. The possible freehold/leasehold transfer of the harbours or its management has not been included in the council's plans; therefore if this opportunity is to be explored then it is necessary for the council to confirm its approach to both harbours.
12. Consideration of the freehold/leasehold or outsourcing of the management of the harbours is entirely consistent with the council's expressed strategy to, "identify those services which we will no longer provide or those that we might enable others to provide with minimal input from the council. On this basis it is suggested that Ryde Harbour is offered for freehold/leasehold transfer on the open market but with restrictions via a covenant to ensure it will only used as a harbour. It is also important that the Council includes a reversion clause with compensation to allow any future developed of the seafront. In respect of Ventnor Harbour it is proposed that interest is sought for its management at no cost to the Council.
13. If the council is not able to secure new operators for these harbours then it will need to continue with its direct operation and management of these facilities until such time as a further review of their operation and sustainability can be considered.

STRATEGIC CONTEXT

14. The potential to outsource the harbours may create new opportunities and protect the assets in addition to and improving the Council's future financial position. Namely it will support the following commitments in the Corporate plan 2017-2020
 - Deliver economic growth and prosperity
 - Plan for our future needs
 - Provide sound financial management

CONSULTATION

15. The interest of the private sector investors/developers in the harbours presents a significant opportunity for the council however, in order to take advantage of this opportunity members need to determine the approach that they wish to take with both harbours.
16. All interested parties will however be able to make representations through the normal processes in the consideration of this paper. If the paper is approved a wider consultation will follow to seek the views of interested parties to be taken into account when considering the terms of any leasehold or freehold transfer or other arrangements to be put in place.

FINANCIAL / BUDGET IMPLICATIONS

17. The average last two year revenue subsidy, 2016-2018, provided by the council towards the operation of Ventnor harbour has been £65k per annum. Over the same period, Ryde Harbour has generated of £13.5k surplus. Hence the cost of operating both harbours is £51,500. This average annual figure excludes any significant one-off

costs during the period, such as specialist consulting costs for Ventnor, and pontoon replacement costs for fire damage for Ryde.

18. The costs associated with the marketing of the harbours and the evaluation any proposals received can be contained within existing budgets.
19. Within the next 10 years, it is estimated that in the region of £1.2 million will need to be found for essential repairs and maintenance

CARBON EMISSIONS

20. There are no direct implications for the council's carbon management plan arising from the recommendations in this paper. There may be a potential increase in the Island's overall carbon footprint if the harbour is developed in the long term to provide a greater economic benefit to the Island.

LEGAL IMPLICATIONS

21. The Council has the power to dispose of property under section 123 of the Local Government Act 1972, which requires it to achieve "best consideration" in any disposal.
22. Ryde Harbour is owned freehold by the Isle of Wight Council, but may be subject to a number of constraints to regeneration such as restrictive covenants in favour of the Lind and Bridgstock estates. The council has commissioned a report on title of its property assets on Ryde seafront and this will clarify these and any other recorded constraints. These constraints will be disclosed to potential bidders for the harbour during the marketing process and may impact on the value of the harbour.
23. Ventnor is a Statutory Harbour and will be required to seek approval from the Marine Management Organisation before the management function could be outsourced.
24. The council will need to be mindful of the Transfer of Undertakings (Protection of Employment) regulations (TUPE) 2006 which seek to protect employees' terms and conditions of employment (including pay, benefits and pension) when a business is transferred from one owner to another. In such cases the council staff would automatically become employees of the new business on the same terms and conditions as they currently have as employees of the council. The council would be required to inform and consult staff affected directly and indirectly by the transfer to comply with TUPE and avoid the cost of unfair dismissal claims and Employment Tribunals.

EQUALITY AND DIVERSITY

25. The Council as a public body is subject to general and specific duties under equality and diversity legislation and as such has a duty to impact assess its service, policies/strategies and decisions with regards to diversity legislation and the nine protected characteristics (race, gender reassignment, disability, age, sex and sexual orientation, religion or belief, pregnancy and maternity, marriage and civil partnership). There are no direct implications for the Council's duties under the terms of the Equality Act 2010 arising from the recommendations in this paper.

PROPERTY IMPLICATIONS

26. The utilities block (known as the hospitality suite) for Ryde harbour provides shower and toilet facilities for harbour users and is located approximately 150m east of the harbour within the Eastern Esplanade public conveniences building which is in part leased out to Ryde Town Council. The possible freehold/leasehold transfer of the harbour will need to also include access to this facility and it is envisaged that this would be through a lease of part of the building.

SECTION 17 CRIME AND DISORDER ACT 1998

27. There are no direct crime and disorder implications arising from the recommendations in this paper. If regeneration occurs as a result of this paper this may have a positive impact on crime reduction.

OPTIONS

28. The options available to the council are:

- 1) To offer the freehold/leasehold of Ryde harbour on the open market with a restrictive covenant that it be only used as a harbour/marina; such covenants to only be removed if an alternative use of the area could generate a significant and sustainable economic benefit to Ryde and/or the Island. Any consideration should include a reversion to allow for any future development of the seafront
- 2) To offer the freehold/leasehold of Ryde harbour on the open market with no restrictive covenants
- 3) Not to offer the freehold/leasehold transfer of Ryde harbour.
- 4) To offer the management of Ventnor Harbour to a third party through the open market at no cost to the council;
- 5) Not to offer the management of Ventnor Harbour to a third party and continue to fund the current deficit.
- 6) The final agreed terms of any transfer/outsourcing to a third party be to be the subject of a further delegated decision of the Cabinet Member, but where no terms are agreed then the council will continue to directly manage the harbour

RISK MANAGEMENT

29. If the council is not able to agree to consider the transfer of Ryde harbour and the outsourcing of Ventnor Harbour and to take advantage of this current opportunity there is a risk that similar opportunities may not present themselves to the council again in the short to medium term.
30. There is a risk that should the council agree to consider offers for the harbours it is not able to reach a suitable agreement with any third party which satisfies the council's needs to see the economic benefit of the harbour areas sustained and improved in the short term. Were this to be the case the council would still have to operate and sustain harbours.

31. Local users of the harbour and other interested parties will be able to comment on any paper that comes forward seeking the council's approval to the terms agreed for possible options for the harbours. It is possible that the council may not be able to balance the needs of these groups with its own aspirations for the future of the harbours. This risk is common to many decisions where the council is unable to continue directly providing or supporting a specific service but is able to secure alternative provision of the service which whilst changed is not stopped or closed altogether.

EVALUATION

32. The provision of the harbours is not a statutory duty of the council. It has not previously been included in the council's proposed plans because the council continues to fund and operate the harbours and has not yet made any decision as to whether it wishes to cease doing so. Given the pressures on public sector finances in general and the council in particular the council would need to give some consideration to its aspirations for the harbours, a discretionary service, in the very near future.
33. Central to these considerations will be the potential capital and revenue expenditure that will be required for both harbours to remain open. This would be a minimum of £238k for the major dredging of the Ryde harbour and may at some time include the cost of replacing the gabions that make up the harbour arm (previously estimated at 800K in 2006. Which becomes £1,062k at current pricing). Nevertheless when these works are due the council will have a choice of prioritising these works above other priorities for its limited funding. With regards Ventnor Haven it continues to operate the harbour with a net deficit of £65k which includes the £75k per annum cost for the removal of seaweed.
34. Securing private sector investment in the operation of the harbours, through its transfer of the freehold/leasehold for Ryde and for the outsourcing of the management function for Ventnor, may permit the harbours to be sustained without additional council input or cost.
35. Any private sector investor/developer that may acquire the harbours would wish to invest in the facility in order to ensure that it remains viable for the foreseeable future. This in itself may begin to improve the overall attractiveness and environment of the seafront and could encourage others to invest in the area.
36. Securing a private sector owner for the harbour could therefore provide an opportunity for the council to both resolve the medium term future of the harbours and provide a possible catalyst for other investment into the Seafronts. How well these objectives can be achieved can only be evaluated following this process that involves openly marketing the harbours and evaluating all of the bids received for it against these criteria.

37. RECOMMENDATION

Agree to implement options (1), (4) and (6)

Option 1 - To offer the freehold/leasehold of Ryde harbour on the open market with a restrictive covenant that it be only used as a harbour/marina; such covenants to only be removed if an alternative use of the area could generate a significant and sustainable economic benefit to Ryde and/or the Island. Any consideration should include a reversion to allow for any future development of the seafront.

Option 4 - To offer the transfer the management of Ventnor Harbour to a third party through the open market at no cost to the council;

Option 6 - The final agreed terms of any transfer/outsourcing to a third party be to be the subject of a further delegated decision of the Cabinet Member, but where no terms are agreed then the council will continue to directly manage the harbour.

38. BACKGROUND PAPERS

Ventnor Haven Phase II Works Final Report – Royal Haskoning DHV 11.09.17

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Trevor Pugh
Interim Director of Neighbourhoods

Cllr Stuart Hutchinson
*Deputy Leader and
Cabinet Member for Resources*

Decision

Signed _____

Date